

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                   |   |                 |
|-----------------------------------|---|-----------------|
| SAM L. SMITH                      | ) |                 |
|                                   | ) |                 |
| COMPLAINANT                       | ) |                 |
|                                   | ) |                 |
| VS.                               | ) | CASE NO. 93-394 |
|                                   | ) |                 |
| LOGAN TELEPHONE COOPERATIVE, INC. | ) |                 |
|                                   | ) |                 |
| DEFENDANT                         | ) |                 |

O R D E R

On October 22, 1993, Sam L. Smith filed a formal complaint with the Commission against Logan Telephone Cooperative, Inc. ("Logan"). Mr. Smith, who is no longer a customer of Logan, seeks payment of capital credits in the amount of \$388.20 that have accumulated in his account with Logan. On November 2, 1993, the Commission directed Logan to satisfy the complaint or to file a written answer within 10 days. Logan filed its response on November 10, 1993.

The By-Laws of the Cooperative provide that retirement of capital credits may be made through a general distribution after the Board of Directors has determined that Logan's financial condition will not be impaired. Once that determination has been made, the By-Laws state as follows:

Any such retirements of capital shall be made in order of priority, according to the year in which the capital was furnished and credited, the capital first received by the Co-op being first retired, or on a percentage basis by which amount of the payment made to each member-patron is determined by the percentage of their capital credits as

compared to the total capital credits of the Co-op, or by any combination of the above methods as the Board in its discretion deems best. In no event, however, may any such capital be retired unless, after the proposed retirement, the capital of the Co-op shall equal at least forty per centum (40%) of the total assets of the Co-op.<sup>1</sup>

Based on quarterly financial reports filed by Logan, its capital as of December 31, 1993 was approximately 40 percent of total assets and adherence to its By-Laws would not allow a distribution of capital credits. Logan's By-Laws require distributions in order of priority according to the year in which the capital was credited or on a percentage basis. Capital credit payments have been made in the past for the years 1960 - 1972 and the Board has not authorized any general distributions of capital credits on a percentage basis. Mr. Smith's capital credits were earned during the years of 1986 - 1992 and thus no distribution has been made pertaining to the years in which Mr. Smith earned capital credits.

The Commission finds that Logan's position is consistent with its By-Laws. Therefore, no action should be taken by the Commission.

IT IS THEREFORE ORDERED that the complaint of Sam L. Smith is dismissed.


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<sup>1</sup> Logan Telephone Cooperative, Inc. By-Laws, Article VII, pg. 7.

Done at Frankfort, Kentucky, this

7th day of April, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director